IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 10TH AUGUST 2007 / 19TH SRAVANA 1929

Crl.Rev.Pet.No. 891 of 1999()

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REVN. PETITIONER:

BY ADV. SRI.V.N.ACHUTHA KURUP
SRI.B.S.SWATHY KUMAR

RESPONDENTS:

BY ADV. PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 10/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J

Crl.R.P.No.891 of 1999

Dated this the 10th day of August, 2007

O R D E R

The revision petitioner is the husband/counter petitioner in M.C.No.137/97 and the petitioner in C.M.P.No.43/99 has sought for setting aside the orders of the courts below. As per the order in M.C.No.137/99 dated 29.8.1998 the Magistrate ordered maintenance at the rate of Rs.500/- each to the petitioners 1 and 2, the wife and the elder child and Rs.400/- to the third petitioner i.e., the second child from the date of the petition i.e., from 15.12.1997 onwards. On application under Section 127 Crl.P.C. filed by the husband seeking to reduce the amount of maintenance on the basis of the Civil court decree, the court below dismissed the application pointing out that no amount at all has been paid by the petitioner/husband therein. It is submitted that the revision petitioner is working abroad. The counsel for the revision petitioner has produced the order of the Additional District Judge, Pathanamthitta in A.S.No.19/01 dated 31.8.2006 as per which the appellate court has disallowed the maintenance

claimed by the wife and the maintenance ordered only at the rate of Rs.300/- to the minor children.

In the circumstances, I find that the revision petitioner can raise the contention before the court below at the time of execution by filing appropriate application as on the date of the order in C.M.P.No.43/99 i.e., 29.9.1999 the civil court decision was not in existence. Hence, the revision petition is dismissed permitting the revision petitioner to seek appropriate remedy before the proper forum.

K.R.UDAYABHANU,
JUDGE

csl